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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,462	08/28/2003	Dragan Filipovic	67439	7116
48940 7590 03/05/2007 FITCH EVEN TABIN & FLANNERY 120 S. LASALLE STREET SUITE 1600 CHICAGO, IL 60603-3406			EXAMINER WILLIAMS, ROSS A	
			ART UNIT 3714	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE 3 MONTHS		MAIL DATE 03/05/2007	DELIVERY MODE PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/650,462

Applicant(s)

FILIPOVIC ET AL.

Examiner

Ross A. Williams

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 12/19/2003.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 12/19/2003 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 3, 6 – 13, 15 – 29, 31 – 35 and 41 are rejected under 35

U.S.C. 102(b) as being anticipated by Kalik (US 5,326,269).

Claims 1, 28, 29, 31, 32 and 41: Kalik discloses a game board that consists of multiple layers or substrates. Kalik discloses a game switch 30, 31' that extends upward from the game board. This switch can be viewed as a game marker that is partially comprised of at least a conductive material (Figs 1, 2). Kalik also discloses multiple game board substrates 16, 19, 41, 41' 42 and 42'. As can be seen Kalik discloses a first substrate 41, 41' that possesses a game marker channel wherein the game switch 31' is positioned. The spacing for the game switch/marker is wide enough

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to accommodate the game switch. Kalik further discloses multiple substrates 16 and 19 that can be viewed as a second substrate that is proximal to the first substrate. These substrates are positioned over the first substrate and possesses an access channel that provides an opening for the game switch stalk (Figs 1, 2). As can be seen from Figs 1 and 2, this switch can be moved by a player's finger but at the same time can also allow the player to insert a narrow object into the access channel to move the switch back and forth.

Regarding particulars of claim 28, if multiple players each possess a game device of Kalik there would be no limit as to how the players may choose to orient or align the devices with the opposing player's game board thus aligning the game position indicators.

Claim 2: Kalik discloses a game switch 30,31' that can be considered a game marker (Fig 1,2). The game marker is a electrical switch wherein the electrical components of the game switch are fully comprised of a conductive material.

Claim 3: Kalik discloses a game switch that can be viewed as a game marker. The game switch possesses a stalk portion that is substantially disk shaped (Figs 1, 2).

Claim 6: Kalik discloses the game switch channel is of a serpentine or long horizontal shape (Fig 1, 2)

Claims 7 – 9: Kalik discloses a plurality of terminals 18 and 20 that are connected to the second and first substrate. Kalik discloses that the terminals are connected in a rivet stud fashion, thus filling holes in the first substrate 40 and 41 (Kalik 6:57 – 63, Fig 1 – 3).

Claims 10 and 11: Kalik discloses several registration or alignment pins/terminals 18, 21 and corresponding holes that provide proper alignment with other portions of the game apparatus (Fig 1,2)

Claims 12 and 13: Kalik discloses the user of game position indicators along the game position marker channel or the game switch channel (Figs 1,3).

Claims 15 – 21, 33: Kalik discloses a game switch (i.e. marker) that is positioned proximal to the game position marker channel. The game switch includes conductive materials or terminals/electrodes 39, 39' and 39". The game switch inherently possesses conductive paths in the switch to connect the various terminals relating to the various game positions of the device (5:66 – 6:36). Kalik also discloses that the electrodes 39, 39' and 39" are electrical coupled or connected to terminals 18 and 21 which are connected to the first substrate 40, 41 and extend through to the second substrates 16, and 19 (Fig 1, 2). Thus the electrodes of the game switch are electrically connected to the substrates by means of the terminals 18 and 21 (7:9 – 22, 45 – 51, 7:54 – 8:11).

Claims 22, 23, 24, 34, 35: Kalik discloses the use of a light source or audio source that will activate upon the completion of the electric circuit (7:9 – 17).

Claims 25 – 27: Kalik discloses a third substrate 16 with visual game position indicators or printed indicia that correspond to game positions of the device (Fig 1 – 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalik (US 5,326,269) in view of Salley (US 5, 865, 676)

Claims 4 and 30: Kalik discloses the use of a game switch that can be used as a game marker. Kalik does not disclose that the game marker is a battery. However Sally discloses the use of a game board that utilizes mechanical game figures or markers that fit into slots or grooves in the game board. Salley discloses that the game figures possess batteries inside them to illuminate a light (Salley 6:35 – 51). This light provides a more visually attractive board game (Salley 6:48 – 51).

It would be obvious to one of ordinary skill in the art to modify the marker of Kalik to include a battery to illuminate a light in the switch. This would enable the device to provide a more effective marking means to show to the player in which position the game position marker or switch is in while playing the game.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kalik (US 5,326,269) in view of Ueno et al (US 6,523,764).

Claim 5: Kalik does not specifically disclose the first substrate comprising partially of paperboard. However the use if circuit boards that comprise at least partially

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of paper is well known in the art. This can be seen by Ueno, which discloses that printed circuit boards may comprise a plurality of materials such as paper or other fibrous materials (Ueno 8:27 – 41, 9:58 – 60). The paperboard circuit boards have conductive traces impressed or laid upon the board.

It would be obvious to one of ordinary skill in the art to specify that the substrates of Kalik can comprise paperboard substrates. As is evidenced by Ueno it is well known in the art of circuit board construction to construct circuit boards that comprise a paper medium or paperboard medium. Depending on the budget constraints of the manufacturer, paper circuit boards can provide a cost effective material as opposed to conventional printed circuit boards made of more durable materials such as resins of plastics.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kalik (US 5,326,269).

Claim 14: Kalik discloses the user of game position indicators along the game position marker channel or the game switch channel (Figs 1,3). However, Kalik does not disclose the use of at least nine visually exposed game position indicators. Kalik discloses the use of at least three game position indicators. It would be an obvious matter of design choice to choose any number or amount of game position indicators that the player or user can see. The indicators that the applicant is claiming are mere visual indicia that are represented on the game device board.

Claim 36 – 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kalik (US 5,326,269).

Claims 36 – 40: Kalik does not disclose that the game device is included as a promotional item in the packaging of a commodity such as an edible commodity. Kalik also does not specifically state that the device forms an integral part of the packaging material. However it is well known in the art to use various types of packaging when shipping a device to person and it is further well known to put various prizes and promotional items in the commodity packaging such as cereal boxes and other type of foodstuffs. This is evidenced by Brenkus, which discloses that it is well known for manufactures of various types of snacks, candies, etc to often place prizes of various shapes and sizes in a container or packaging (Brenkus page 1:par 0004). Thus it would be obvious to one of ordinary skill in the art in an effort to promote a certain item to use the device of Kalik as a promotional item, novelty or prize in the commodity packaging.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ross A. Williams whose telephone number is (571) 272-5911. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Robert E. Pezzuto
Supervisory Patent Examiner
Art Unit 3714